

BILL NO. **90-83**

COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND

**AS AMENDED**

BILL NO. 90-83

Introduced by Council President Wilson at the request of the  
County Executive and Council Member Risacher  
Legislative Day No. 90-28 Date September 18, 1990

AN EMERGENCY ACT to repeal and re-enact, with amendments, in its entirety, Chapter 146, heading Hazardous Wastes, of the Harford County Code, as amended, and to re-enact new Chapter 146, heading Hazardous Materials, to provide for the control, management and regulations of hazardous materials and hazardous wastes located or transported in or into Harford County.

By the Council, September 18, 1990  
Introduced, read first time, ordered posted and public hearing scheduled  
on: October 16, 1990  
at: 6:15 P.M.  
By Order: Doris Poulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on October 16, 1990, and concluded on, October 16, 1990

Doris Poulsen, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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Section 1. Be It Enacted By The County Council of Harford County, Maryland, that Chapter 146, in its entirety, heading Hazardous Wastes of the Harford County Code as amended, be and it is hereby repealed and re-enacted with amendments all to read as follows:

CHAPTER 146. HAZARDOUS MATERIALS

ARTICLE I. GENERAL PROVISIONS

SECTION 146-1. SHORT TITLE.

THIS ARTICLE SHALL HEREAFTER BE REFERRED TO AS THE "HARFORD COUNTY HAZARDOUS MATERIALS ARTICLE."

SECTION 146-2. PURPOSE AND INTENT.

A. THE PURPOSES OF THIS ARTICLE ARE:

(1) TO ESTABLISH EFFECTIVE PROGRAMS AND TO PROVIDE ADDITIONAL AND CUMULATIVE REMEDIES TO PREVENT, ABATE AND CONTROL POLLUTANTS OR COMBINATION OF POLLUTANTS, TOXIC MATERIALS OR HAZARDOUS MATERIALS AND WASTE.

(2) TO PROTECT THE CITIZENS, PROPERTY AND EMPLOYEES OF HARFORD COUNTY FROM THE HEALTH HAZARDS AND OTHER RISKS RESULTING FROM RELEASES OR INCIDENT TO THE USE, STORAGE, DISTRIBUTION, POSSESSION OR TRANSPORTATION OF ~~SAID ITEMS~~ HAZARDOUS SUBSTANCES.

B. THIS ARTICLE IS ENACTED PURSUANT TO THE ENABLING POWERS CONFERRED BY MD. ANN. CODE, ARTICLE 25A § 5(A), 5(B), 5(J) AND 5(T); ARTICLE 16A § 7; AND ~~MD. ENVIRONMENT CODE § 9-901.~~ THE ENVIRONMENT ARTICLE OF THE CODE. THIS ARTICLE IS NOT INTENDED TO SUPERCEDE STATE RESPONSIBILITY AND AUTHORITY IN THE SUBJECT MATTERS COVERED BY THIS ARTICLE.

AS AMENDED

1 SECTION 146-3. DEFINITIONS.

2 FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING DEFINITIONS  
3 SHALL BE USED:

4 ACT - THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986  
5 ~~(SARA)~~, 42 U.S.C. § 1102, ET SEQ., ALL AMENDMENTS THERETO AND ALL  
6 FEDERAL REGULATIONS PROMULGATED PURSUANT TO THE ACT.

7 ACT OF GOD-AN UNANTICIPATED NATURAL DISASTER OR OTHER NATURAL  
8 PHENOMENON OF EXCEPTIONAL, INEVITABLE, AND IRRESISTIBLE CHARACTER,  
9 THE EFFECTS OF WHICH COULD NOT HAVE BEEN PREVENTED OR AVOIDED BY  
10 THE EXERCISE OF DUE CARE.

11 ARTICLE - ARTICLE I, GENERAL PROVISIONS, OF CHAPTER 146, OF  
12 THE HARFORD COUNTY CODE.

13 AUTHORITY - THE CHIEF OF THE DIVISION OF EMERGENCY OPERATIONS  
14 OR THE CHIEF'S DULY AUTHORIZED DESIGNEE. IN THE EVENT OF A VACANCY  
15 IN THE POSITION OF CHIEF OF THE DIVISION OF EMERGENCY OPERATIONS,  
16 THE DIRECTOR OF ADMINISTRATION OR THE DIRECTOR'S DULY APPOINTED  
17 DESIGNEE SHALL CONSTITUTE THE AUTHORITY.

18 CODE - MARYLAND ANNOTATED CODE, ~~ENVIRONMENT ARTICLE, §§ 7-~~  
19 ~~101 AND AS AMENDED AND ALL REGULATIONS PROMULGATED PURSUANT TO THE~~  
20 CODE.

21 COUNTY - HARFORD COUNTY, MARYLAND.

22 DEPARTMENT - DIVISION OF EMERGENCY OPERATIONS.

23 FACILITY -

24 ~~(1)~~ ANY BUILDINGS, STRUCTURES, ACCESSORY STRUCTURES,  
25 INSTALLATION, EQUIPMENT, PIPE OR PIPELINE (INCLUDING ANY PIPE INTO  
26 A SEWER OR PUBLICLY OWNED TREATMENT WORKS), WELL, PIT, LAGOON,

## AS AMENDED

1 IMPOUNDMENT, DITCH, LANDFILL, STORAGE CONTAINER, AND OTHER  
2 STATIONARY ITEMS WHICH ARE LOCATED ON A SINGLE SITE OR A CONTIGUOUS  
3 OR ADJACENT SITE WHICH ARE OWNED, OCCUPIED OR OPERATED BY THE SAME  
4 PERSON OR ENTITY AND WHICH MANUFACTURE, PRODUCE, USE, IMPORT,  
5 EXPORT, STORE, SUPPLY OR DISTRIBUTE ANY HAZARDOUS MATERIAL MOTOR  
6 VEHICLE, ~~ROLLING STOCK OR AIRCRAFT.~~

7 ~~(2) ANY SITE OR AREA WHERE A HAZARDOUS SUBSTANCE HAS~~  
8 ~~BEEN DEPOSITED, STORED, DISPOSED OF, PLACED, OR OTHERWISE COME TO~~  
9 ~~BE LOCATED.~~

10 HCEOD - THE HARFORD COUNTY EMERGENCY OPERATIONS DIVISION.

11 HAZARDOUS MATERIAL RESPONSE TEAM - A TEAM OF INDIVIDUALS WHO  
12 ARE ORGANIZED AND TRAINED FOR THE PRIMARY PURPOSE OF PROVIDING  
13 EMERGENCY SERVICES, INCLUDING REMOVAL AND REMEDIAL ACTIONS, IN  
14 RESPONSE TO THE RELEASE OF A HAZARDOUS SUBSTANCE.

15 HAZARDOUS SUBSTANCE -

16 (1) ANY SUBSTANCE DESIGNATED PURSUANT TO SECTION  
17 9601(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION  
18 AND LIABILITY ACT OF 1980 (CERCLA) (42 U.S.C. SECTION 9601(14), AND  
19 AS AMENDED AND REGULATIONS ENACTED PURSUANT THERETO); OR

20 (2) GAS, AS DEFINED BY MARYLAND ANNOTATED CODE, NATURAL  
21 RESOURCES ARTICLE, SECTION 6-102, AND AS AMENDED; OR

22 (3) OIL, AS DEFINED BY CODE, NATURAL RESOURCES ARTICLE,  
23 SECTION 6-102, AND AS AMENDED; OR

24 (4) MOTOR VEHICLE FUEL, AS DEFINED BY CODE, ARTICLE 56,  
25 SECTION 135, AND AS AMENDED; OR

26 (5) PETROLEUM PRODUCTS, AS DEFINED BY CODE, ARTICLE 56,

1 SECTION 135, AND AS AMENDED;

2 ~~(2) ANY HAZARDOUS MATERIAL OR WASTE THAT THE DEPARTMENT~~  
3 ~~IDENTIFIES AS A HAZARDOUS SUBSTANCE UNDER THIS SUBTITLE; OR~~

4 ~~(3) (2) (6) LOW-LEVEL NUCLEAR WASTE; OR~~

5 ~~(7) HAZARDOUS SUBSTANCE DOES NOT INCLUDE FLY ASH, BOTTOM~~  
6 ~~ASH, SLAG, AND OTHER BY-PRODUCTS GENERATED FROM THE COMBUSTION OF~~  
7 ~~FOSSIL FUELS.~~

8 ~~(4) ANY SUBSTANCE WHICH:~~

9 ~~(a) CONVEYS TOXIC, LETHAL OR OTHER INJURIOUS~~  
10 ~~EFFECTS OR WHICH CAUSES SUBLETHAL ALTERATIONS TO PLANT, ANIMAL OR~~  
11 ~~AQUATIC LIFE;~~

12 ~~(b) MAY BE INJURIOUS TO HUMAN BEINGS; AND~~

13 ~~(c) PERSISTS IN THE ENVIRONMENT.~~

14 PERSON - AN INDIVIDUAL, CORPORATION, FIRM, ASSOCIATION,  
15 PARTNERSHIP, JOINT VENTURE, COMMERCIAL ENTITY, PUBLIC UTILITY,  
16 TRUST, ESTATE, PUBLIC OR PRIVATE INSTITUTION, GROUP, AGENCY,  
17 POLITICAL SUBDIVISION AND ANY LEGAL SUCCESSOR, REPRESENTATIVE OR  
18 AGENCY OF THE FOREGOING.

19 RELEASE - ANY SPILLING, LEAKING, PUMPING, POURING, EMITTING,  
20 EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING OR  
21 DISPOSING INTO THE ENVIRONMENT, OF A HAZARDOUS MATERIAL SUBSTANCE,  
22 INCLUDING, BUT NOT LIMITED TO, THE ABANDONMENT OR DISCARDING OF  
23 BARRELS, CONTAINERS AND OTHER RECEPTACLES CONTAINING A HAZARDOUS  
24 MATERIAL SUBSTANCE. RELEASE DOES NOT INCLUDE A DISCHARGE PERMITTED  
25 BY STATE OR FEDERAL LAW.

26 REMEDIAL RESPONSE ACTION - THOSE ACTIONS ~~CONSISTENT WITH A~~

~~PERMANENT REMEDY TAKEN IN ADDITION TO OR INSTEAD OF REMOVAL~~  
~~ACTIONS,~~ TAKEN TO PREVENT OR MINIMIZE THE RELEASE OF HAZARDOUS  
 SUBSTANCES, INCLUDING BUT NOT LIMITED TO STORAGE, CONFINEMENT,  
 NEUTRALIZATION, CLEANUP OF HAZARDOUS SUBSTANCES OR ASSOCIATED  
 CONTAMINATED MATERIALS, RECYCLING, DESTRUCTION, PERIMETER  
 PROTECTION, SEGREGATION OF REACTIVE WASTES, REPAIR OR REPLACEMENT  
 OF DAMAGED OR LEAKING CONTAINERS, COLLECTION OF LEACHATE AND  
 RUNOFF, ON-SITE TREATMENT OR INCINERATION, PROVISION OF ALTERNATE  
 WATER SUPPLIES AND ANY MONITORING ~~REASONABLE~~ REASONABLY REQUIRED  
 TO ASSURE THAT SUCH ACTIONS TAKEN PROTECT THE PUBLIC HEALTH AND  
 WELFARE AND THE ENVIRONMENT.

REMOVAL RESPONSE -

(1) THE CLEANUP OF RELEASED HAZARDOUS SUBSTANCES FROM  
 THE ENVIRONMENT; OR

~~(2) SUCH ACTIONS AS MAY BE NECESSARY IN THE EVENT OF A~~  
~~THREATENED RELEASE; OR~~

~~(3)~~ (2) SUCH ACTIONS AS MAY BE NECESSARY TO MONITOR,  
 ASSESS AND EVALUATE THE RELEASE ~~OR THREAT OF RELEASE~~ OF HAZARDOUS  
 SUBSTANCES; OR

~~(4)~~ (3) THE DISPOSAL OF REMOVED MATERIALS.

RESPONSE COST - INCLUDES THE FOLLOWING:

(1) DISPOSABLE MATERIALS AND SUPPLIES ACQUIRED, CONSUMED  
 AND EXPENDED SPECIFICALLY FOR THE PURPOSE OF THE RESPONSE TO THE  
 HAZARDOUS ~~MATERIAL~~ SUBSTANCE RELEASE.

(2) RENTAL OR LEASING OF EQUIPMENT USED SPECIFICALLY FOR  
 THE RESPONSE, FOR EXAMPLE, PROTECTIVE EQUIPMENT OR CLOTHING AND

1 SCIENTIFIC AND TECHNICAL EQUIPMENT.

2 (3) REPLACEMENT COSTS FOR EQUIPMENT THAT IS CONTAMINATED  
3 BEYOND REUSE OR REPAIR DURING THE RESPONSE, BY WAY OF ILLUSTRATION  
4 AND NOT LIMITATION, SELF-CONTAINED BREATHING APPARATUS, PROTECTIVE  
5 EQUIPMENT OR CLOTHING AND SCIENTIFIC AND TECHNICAL EQUIPMENT  
6 IRRETRIEVABLY CONTAMINATED DURING THE RESPONSE.

7 (4) A SURCHARGE RELATED TO THE DEPLETION OF THE USEFUL  
8 LIFE OF ANY EQUIPMENT, MATERIALS OR SUPPLIES WITH A LIMITED USEFUL  
9 LIFE SPAN.

10 (5) DECONTAMINATION OF EQUIPMENT CONTAMINATED DURING THE  
11 RESPONSE.

12 (6) TOTAL COMPENSATION ASSOCIATED WITH THE RESPONSE,  
13 INCLUDING BUT NOT LIMITED TO BENEFITS (FICA, INSURANCE), OF COUNTY  
14 EMPLOYEES OR MEMBERS OF THE HAZARDOUS MATERIAL RESPONSE TEAM WHO  
15 ARE NOT HARFORD COUNTY PERMANENT EMPLOYEES, TO INCLUDE REGULAR AND  
16 OVERTIME PAY, AT THE RATE SET FOR MEMBERS OF THE HAZARDOUS  
17 MATERIALS RESPONSE TEAM, FOR PERMANENT FULL-TIME AND OTHER THAN  
18 FULL-TIME EMPLOYEES OR MEMBERS, AND ANY CONTRACTOR, SUBCONTRACTOR  
19 OR AGENT.

20 (7) SPECIAL TECHNICAL SERVICES SPECIFICALLY REQUIRED FOR  
21 THE RESPONSE, FOR EXAMPLE, COSTS ASSOCIATED WITH THE TIME,  
22 EQUIPMENT AND EFFORTS OF TECHNICAL EXPERTS OR SPECIALISTS.

23 (8) ANY TESTS TO DETERMINE THE PHYSICAL, CHEMICAL OR  
24 BIOLOGICAL PROPERTIES OF THE RELEASED ITEMS AND MONITORING THE SITE  
25 AND ADJOINING AREAS.

26 (9) OTHER SPECIAL SERVICES INCLUDING, BUT NOT LIMITED



1 TO UTILITIES SPECIFICALLY REQUIRED FOR THE RESPONSE, AS DETERMINED  
2 BY THE AUTHORITY.

3 (10) COSTS ASSOCIATED WITH THE SERVICES, INCLUDING  
4 HOUSING AND COST OF CARE, SUPPLIES AND EQUIPMENT USED TO CONDUCT  
5 AN EVACUATION DURING THE RESPONSE.

6 (11) ADMINISTRATIVE COSTS, INCLUDING, BUT NOT LIMITED TO  
7 ATTORNEYS' FEES AND COURT COSTS.

8 RESPONSIBLE PERSON -

9 (1) IS ANY PERSON WHO:

10 (a) IS THE NONGOVERNMENTAL OWNER OR OPERATOR OF A  
11 VEHICLE OR A SITE CONTAINING A ~~CONTROLLED~~ HAZARDOUS SUBSTANCE.

12 (b) AT THE TIME OF ~~DISPOSAL~~ THE RELEASE OF ANY  
13 CONTROLLED HAZARDOUS SUBSTANCE, WAS THE NONGOVERNMENTAL OPERATOR  
14 OR OWNER OF ANY SITE AT WHICH THE ~~CONTROLLED~~ HAZARDOUS SUBSTANCE  
15 WAS ~~DISPOSED~~ RELEASED.

16 (c) BY CONTRACT, AGREEMENT OR OTHERWISE ARRANGED  
17 FOR DISPOSAL OR TREATMENT, OR ARRANGED WITH A TRANSPORTER FOR  
18 TRANSPORT FOR DISPOSAL OR TREATMENT, OF A ~~CONTROLLED~~ HAZARDOUS  
19 SUBSTANCE OWNED OR POSSESSED BY SUCH PERSON, BY ANY OTHER PARTY OR  
20 ENTITY, AT ANY SITE OWNED OR OPERATED BY ANOTHER PARTY OR ENTITY  
21 AND CONTAINING SUCH HAZARDOUS SUBSTANCES.

22 (d) ANY PERSON WHO ACCEPTS OR ACCEPTED ANY  
23 ~~CONTROLLED~~ HAZARDOUS SUBSTANCE FOR TRANSPORT TO A DISPOSAL OR  
24 TREATMENT FACILITY OR ANY SITES SELECTED BY THE PERSON.

25 (2) RESPONSIBLE PERSON DOES NOT INCLUDE:

26 ~~(a) A PERSON WHO PURCHASES A SITE CONTAINING A~~

1 ~~CONTROLLED HAZARDOUS SUBSTANCE WITHOUT KNOWLEDGE OF THE EXISTENCE~~  
2 ~~OF THE CONTROLLED HAZARDOUS SUBSTANCE AT THE SITE.~~

3 (b) A HOLDER OF A MORTGAGE OR DEED OF TRUST WHO  
4 ACQUIRES TITLE THROUGH FORECLOSURE TO A SITE CONTAINING A  
5 ~~CONTROLLED HAZARDOUS SUBSTANCE~~ AS THE RESULT OF A RELEASE.

6 TRANSPORT - THE MOVEMENT OF A HAZARDOUS SUBSTANCE BY ANY MODE,  
7 INCLUDING PIPELINE AND, IN THE CASE OF A HAZARDOUS SUBSTANCE WHICH  
8 HAS BEEN ACCEPTED FOR TRANSPORTATION BY A COMMON CARRIER OR  
9 CONTRACT CARRIER, THE TERM TRANSPORT SHALL INCLUDE ANY STOPPAGE IN  
10 TRANSIT WHICH IS TEMPORARY, INCIDENTAL TO THE TRANSPORTATION  
11 MOVEMENT, SUCH STOPPAGE SHALL BE CONSIDERED AS A CONTINUITY OF THE  
12 MOVEMENT AND SHALL NOT CONSTITUTE STORAGE OF THE SUBSTANCE.

13 VEHICLE - ANY TRUCK, RAILROAD CAR, WATER VESSEL, AIRPLANE OR  
14 OTHER TRANSPORTATION VEHICLE ~~THAT SHIPS, CARRIES OR TRANSPORTS~~ USED  
15 TO SHIP, CARRY OR TRANSPORT A HAZARDOUS MATERIAL SUBSTANCE ~~ON ANY~~  
16 ~~HIGHWAY, RAIL LINE OR WATERWAY WITHIN THE COUNTY.~~

17 ~~SECTION 146-4. PROHIBITED ACTS.~~

18 ~~A. DISCHARGE. NO PERSON SHALL DISCHARGE OR INTENTIONALLY~~  
19 ~~OR NEGLIGENTLY ALLOW THE DISCHARGE, ESCAPE OR INTRODUCTION OF ANY~~  
20 ~~HAZARDOUS SUBSTANCE ONTO ANY PUBLICLY OR PRIVATE OWNED PROPERTY OR~~  
21 ~~WATERWAY WITHIN THE COUNTY UNLESS SUCH DISCHARGE IS PERMITTED UNDER~~  
22 ~~THE ACT, ANY STATE LAW OR REGULATIONS OF THIS ARTICLE~~ LAW, THIS  
23 ARTICLE ~~OR ANY REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.~~

24 ~~(1) NEGLIGENTLY ALLOWED DISCHARGE OR ESCAPE. A~~  
25 ~~NEGLIGENTLY ALLOWED DISCHARGE OR ESCAPE OF HAZARDOUS MATERIALS~~  
26 ~~SHALL BE ANY DISCHARGE OR ESCAPE:~~

1                   ~~(a) THAT OCCURS BECAUSE OF CIRCUMSTANCES WHICH~~  
2                   ~~COULD NOT REASONABLY HAVE BEEN FORESEEN BY THE PERSON.~~

3                   ~~(b) THAT IS NOT SIMILAR TO A DISCHARGE OR ESCAPE~~  
4                   ~~OF A HAZARDOUS SUBSTANCE INVOLVING THE SAME PERSON AND SIMILAR~~  
5                   ~~CIRCUMSTANCES AS ANY DISCHARGE OR ESCAPE WHICH OCCURRED DURING THE~~  
6                   ~~PREVIOUS 180 DAY PERIOD.~~

7                   ~~(c) THAT IS NOT THE RESULT OF A FAILURE TO TAKE ANY~~  
8                   ~~ACTION RECOMMENDED BY ANY FEDERAL, STATE OR COUNTY AGENCY WITH~~  
9                   ~~REGARD TO THE PROPER STORAGE, CONTAINMENT, TRANSPORT OR DEPOSIT OF~~  
10                  ~~THE TYPE OF HAZARDOUS SUBSTANCE IN QUESTION.~~

11                  ~~(d) THAT WAS REPORTED IMMEDIATELY UPON DISCOVERY~~  
12                  ~~TO THE APPROPRIATE FEDERAL, STATE AND/OR LOCAL AUTHORITIES.~~

13                  ~~(2) INTENTIONALLY ALLOWED DISCHARGE OR ESCAPE. ANY~~  
14                  ~~DISCHARGE OR ESCAPE OF HAZARDOUS SUBSTANCES WHICH WAS NOT REPORTED~~  
15                  ~~TO THE APPROPRIATE FEDERAL, STATE AND/OR LOCAL AUTHORITY~~  
16                  ~~IMMEDIATELY UPON DISCOVERY AND:~~

17                  ~~(a) OCCURRED BECAUSE HAZARDOUS SUBSTANCES WERE NOT~~  
18                  ~~STORED, CONTAINED, TRANSPORTED OR DEPOSITED IN COMPLIANCE WITH~~  
19                  ~~FEDERAL, STATE OR COUNTY LAW OR REGULATIONS.~~

20                  ~~(b) THAT IS SIMILAR TO A DISCHARGE OR ESCAPE OF A~~  
21                  ~~HAZARDOUS SUBSTANCE INVOLVING THE SAME PERSON AND SIMILAR~~  
22                  ~~CIRCUMSTANCES AS ANY DISCHARGE OR ESCAPE WHICH OCCURRED DURING THE~~  
23                  ~~PREVIOUS 180 DAY PERIOD.~~

24                  ~~(c) THAT RESULTS BECAUSE A PERSON FAILED TO TAKE~~  
25                  ~~ANY ACTION RECOMMENDED BY A FEDERAL, STATE OR COUNTY AGENCY WITH~~  
26                  ~~REGARD TO THE STORAGE, CONTAINMENT, TRANSPORT OR DEPOSIT OF ANY~~

1     ~~HAZARDOUS SUBSTANCES.~~

2             ~~(3) FAILURE TO COMPLY WITH NOTIFICATION REQUIREMENTS SET~~  
3     ~~FORTH IN SECTION 146-5 OF THIS ACT.~~

4     SECTION 146-5. RECOVERY OF RESPONSE COSTS.

5             ~~A.~~ NOTWITHSTANDING ANY OTHER PROVISION OR RULE OF LAW,  
6     REGARDLESS OF WHETHER INTENTIONALLY OR NEGLIGENTLY ALLOWED, AND  
7     SUBJECT ONLY TO THE DEFENSES SET FORTH IN SUBSECTION ~~(C)~~ B OF THIS  
8     SECTION, A RESPONSIBLE PERSON AS DEFINED HEREIN, SHALL PAY TO THE  
9     COUNTY:

10            ~~(1)~~ ALL COSTS OF REMOVAL OR REMEDIAL RESPONSE ACTION  
11     INCURRED BY THE HCEOD:

12            ~~(a)~~ (1) AMOUNT. IN AN ACTION TO RECOVER RESPONSE  
13     COSTS, ~~A COUNTY AGENCY, LOCAL AGENCY, REGIONAL HAZARDOUS MATERIALS~~  
14     ~~ORGANIZATION OR A HAZARDOUS MATERIAL TRANSPORTER, MANUFACTURER,~~  
15     ~~SUPPLIER OR USER~~ THE COUNTY MAY INCLUDE OPERATIONAL, ADMINISTRA-  
16     TIVE, PERSONNEL, PAYROLL AND LEGAL COSTS INCURRED FROM ITS INITIAL  
17     RESPONSE ACTION UP TO THE TIME THAT IT RECOVERS ITS COSTS. THE  
18     AMOUNT ATTRIBUTABLE TO ADMINISTRATIVE AND LEGAL COSTS SHALL BE 15%  
19     OF THE AMOUNT PAID FOR THE RESPONSE ACTION OR THE ACTUAL COSTS,  
20     WHICHEVER IS GREATER.

21            ~~(b)~~ (2) THE AUTHORITY SHALL HAVE THE AUTHORITY TO  
22     PROMULGATE RULES AND REGULATIONS WHICH SET FORTH THE RATES TO BE  
23     CHARGED FOR "RESPONSE COSTS" UNDER SECTION 146-1.

24            ~~(2) DAMAGES FOR INJURY, DESTRUCTION OR LOSS OF NATURAL~~  
25     ~~RESOURCES, INCLUDING THE REASONABLE COSTS OF ASSESSING THOSE~~  
26     ~~DAMAGES.~~

1           B.     PRESUMPTIONS.     THERE SHALL BE A PRESUMPTION THAT ANY  
2     PERSON WHO OWNS AND/OR HAS A PRESENT POSSESSORY INTEREST IN ANY  
3     PRIVATE PROPERTY ON WHICH ANY DISCHARGE OR ESCAPE OF A HAZARDOUS  
4     WASTE SUBSTANCE OCCURS HAS PERMITTED OR ALLOWED THE DISCHARGE OR  
5     ESCAPE.

6           C.     DEFENSES.     THERE SHALL BE NO PRESUMPTION OF LIABILITY  
7     UNDER THIS ARTICLE FOR A PERSON OTHERWISE LIABLE WHO CAN ESTABLISH,  
8     BY A PREPONDERANCE OF THE EVIDENCE, THAT THE RELEASE OR THREATENED  
9     RELEASE OF A HAZARDOUS SUBSTANCE WAS CAUSED SOLELY BY:

10               (1)    AN ACT OF GOD.

11               (2)    AN ACT OF WAR.

12           D.   (1)     UPON WRITTEN APPLICATION, THE DIRECTOR OF ADMINIS-  
13     TRATION, AT THE DIRECTOR'S SOLE DISCRETION, ~~CAN~~ MAY WAIVE ALL OR  
14     ANY PORTION OF THE CHARGES ASSESSED UNDER THIS SECTION WITH RESPECT  
15     TO ~~A NEGLIGENTLY ALLOWED DISCHARGE OR ESCAPE PAYABLE BY A PERSON.~~  
16     ~~SAID APPLICATION MUST PROVIDE SUPPORTING EVIDENCE FOR SUCH WAIVER.~~  
17     IF THE RELEASE:

18               (a)            OCCURRED BECAUSE OF CIRCUMSTANCES THAT COULD NOT  
19     REASONABLY HAVE BEEN FORESEEN BY THE REASONABLE PERSON;

20               (b)            WAS NOT SIMILAR TO ANY RELEASE INVOLVING THE SAME  
21     RESPONSIBLE PERSON AND SIMILAR CIRCUMSTANCES THAT OCCURRED DURING  
22     THE PREVIOUS 180 CALENDAR DAYS;

23               (c)            WAS NOT THE RESULT OF A FAILURE TO TAKE AN ACTION  
24     RECOMMENDED BY A FEDERAL, STATE, OR COUNTY AGENCY CONCERNING THE  
25     PROPER STORAGE, CONTAINMENT, TRANSPORTATION OR DEPOSIT OF THE TYPE  
26     OF HAZARDOUS SUBSTANCE INVOLVED IN THE RELEASE; AND

1        (d) WAS REPORTED IMMEDIATELY UPON DISCOVERY TO THE PROPER  
2        FEDERAL, STATE, AND LOCAL AUTHORITIES.

3        (2) AN APPLICATION FILED UNDER THIS SUBSECTION SHALL  
4        INCLUDE SUPPORTING EVIDENCE FOR THE REQUESTED WAIVER.

5        SECTION 146-6. EMERGENCY NOTIFICATION REQUIREMENTS.

6            A. FACILITY OR TRANSPORTATION ACCIDENT OR INCIDENT. EXCEPT  
7        AS PROVIDED IN SUBSECTION ~~(D)~~ OF THIS SECTION THE OWNER OR OPERATOR  
8        OF A FACILITY THAT MANUFACTURES, PRODUCES, USES, IMPORTS, EXPORTS,  
9        STORES, SUPPLIES OR DISTRIBUTES ANY HAZARDOUS SUBSTANCE AND THE  
10       OWNER OR OPERATOR OF A VEHICLE THAT SHIPS, TRANSPORTS OR CARRIES  
11       ANY HAZARDOUS SUBSTANCE OR EXTREMELY HAZARDOUS SUBSTANCE TO,  
12       WITHIN, THROUGH OR ACROSS THIS COUNTY SHALL IMMEDIATELY REPORT THE  
13       RELEASE OR DISCHARGE OF THE SUBSTANCE.

14           B. CONTENTS. INITIAL NOTIFICATION SHALL BE MADE BY THE  
15       OWNER OR OPERATOR OF A FACILITY BY CALLING THE 24-HOUR RESPONSE  
16       TELEPHONE NUMBER ("911", OR SUCH OTHER NUMBER AS IS DESIGNATED BY  
17       THE AUTHORITY) OF THE HCEOD. THE NOTIFICATION SHALL INCLUDE EACH  
18       OF THE FOLLOWING TO THE EXTENT KNOWN AT THE TIME OF THE NOTICE AND  
19       SO LONG AS NO DELAY IN RESPONDING TO THE EMERGENCY RESULTS:

20           (1) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING  
21       THE NOTIFICATION.

22           (2) THE TIME, LOCATION AND DURATION OF THE RELEASE.

23           (3) THE MEDIUM INTO WHICH THE RELEASE OCCURRED.

24           (4) THE NAME OF THE PERSON EMPLOYED BY THE OWNER OR  
25       OPERATOR OF THE FACILITY OR VEHICLE WHO HAS THE AUTHORITY OR  
26       RESPONSIBILITY TO SUPERVISE, CONDUCT OR PERFORM ANY CLEANUP

1 ACTIVITIES REQUIRED AT THE RELEASE SITE OR TO CONTRACT FOR THE  
2 PERFORMANCE OF ANY CLEANUP ACTIVITIES AT THE RELEASE SITE.

3 (5) THE CHEMICAL NAME OR IDENTITY OF ANY SUBSTANCE  
4 INVOLVED IN THE RELEASE.

5 (6) AN INDICATION OF WHETHER THE SUBSTANCE IS AN  
6 EXTREMELY HAZARDOUS SUBSTANCE OR OTHER HAZARDOUS MATERIAL OR  
7 APPEARS ON A FEDERAL OR COUNTY LIST OF HAZARDOUS MATERIALS AS  
8 PERIODICALLY AMENDED.

9 (7) AN ESTIMATE OF THE QUANTITY OF THE SUBSTANCE THAT  
10 WAS RELEASED INTO THE ENVIRONMENT.

11 (8) ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH  
12 RISKS ASSOCIATED WITH THE EMERGENCY AND, WHERE APPROPRIATE, ADVICE  
13 REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED INDIVIDUALS.

14 (9) PROPER PRECAUTIONS TO TAKE AS A RESULT OF THE  
15 RELEASE, INCLUDING EVACUATION, UNLESS THE INFORMATION IS READILY  
16 AVAILABLE TO THE COMMUNITY EMERGENCY COORDINATOR UNDER AN EMERGENCY  
17 PLAN, AND ANY OTHER RELEVANT INFORMATION WHICH MAY BE REQUESTED.

18 (10) THE NAME AND TELEPHONE NUMBER OF THE PERSON TO BE  
19 CONTACTED FOR FURTHER INFORMATION.

20 (11) ADDITIONAL INFORMATION REQUIRED BY FEDERAL OR STATE  
21 OR COUNTY REGULATIONS.

22 C. WRITTEN REPORT. WITHIN 14 CALENDAR DAYS AFTER A RELEASE  
23 WHICH REQUIRED NOTICE UNDER THIS SECTION, THE OWNER OR OPERATOR OF  
24 A FACILITY AND THE OWNER OR OPERATOR OF A VEHICLE SHALL PROVIDE A  
25 WRITTEN FOLLOW-UP EMERGENCY NOTICE, OR NOTICES IF MORE INFORMATION  
26 BECOMES AVAILABLE, TO THE HCEOD SETTING FORTH AND UPDATING THE

1 INFORMATION REQUIRED UNDER SUBSECTION (B), AND INCLUDING ADDITIONAL  
2 INFORMATION WITH RESPECT TO:

3 (1) ACTIONS TAKEN TO RESPOND TO AND CONTAIN THE RELEASE.

4 (2) ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH  
5 RISKS ASSOCIATED WITH THE RELEASE.

6 (3) ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR  
7 EXPOSED INDIVIDUALS, WHERE APPROPRIATE.

8 (4) ACTIONS TO BE TAKEN TO MITIGATE POTENTIAL FUTURE  
9 INCIDENTS.

10 (5) ACTIONS TAKEN IN ACCORDANCE WITH THE REQUIREMENTS  
11 OF THE HCEOD.

12 D. EXCEPTION. THE PROVISIONS OF THIS SECTION SHALL NOT  
13 APPLY TO A RELEASE OF A HAZARDOUS SUBSTANCE IF THE RELEASE OF SUCH  
14 SUBSTANCE IS EXEMPTED, EXCLUDED OR PERMITTED BY FEDERAL OR STATE  
15 STATUTE, LAW, RULE OR REGULATION.

16 SECTION 146-7. RIGHT OF ENTRY, MONITORING, TESTING.

17 A. ENTRY. A HAZARDOUS MATERIALS RESPONSE TEAM MAY:

18 (1) ENTER ONTO ANY PRIVATE OR PUBLIC PROPERTY ON WHICH  
19 A RELEASE OF A HAZARDOUS ~~MATERIAL~~ SUBSTANCE HAS OCCURRED OR  
20 ~~THREATENS TO OCCUR~~.

21 (2) ENTER ONTO ANY ADJACENT PROPERTY TO WHICH THE  
22 RELEASE HAS ENTERED ~~OR THREATENS TO ENTER~~.

23 (3) ENTER ONTO ANY PRIVATE OR PUBLIC PROPERTY IN ORDER  
24 TO:

25 (a) RESPOND TO THE RELEASE ~~OR THREATENED RELEASE~~.

26 (b) MONITOR AND CONTAIN THE RELEASE.



1 (c) PERFORM ~~CLEANUP, REMOVAL AND REMEDIAL~~ CLEANUP  
2 AND RESPONSE ACTIONS.

3 (d) PERFORM ANY OTHER ACTIVITIES DEEMED NECESSARY  
4 TO RESPOND TO THE RELEASE.

5 B. MONITORING/INSPECTION.

6 IN ORDER TO DETERMINE COMPLIANCE WITH THIS ARTICLE AND  
7 THIS ACT, THE HCEOD MAY SEND REPRESENTATIVES TO A FACILITY OR  
8 VEHICLE SITE, DURING NORMAL BUSINESS HOURS, TO INSPECT THE FACILITY  
9 OR VEHICLE AND TO REQUEST INFORMATION OR REPORTS FROM THE FACILITY  
10 OR VEHICLE OWNER OR OPERATOR CONCERNING THE CHEMICAL NAME,  
11 IDENTITY, AMOUNT OR ANY OTHER INFORMATION NECESSARY FOR EMERGENCY  
12 PLANNING AND RESPONSE PURPOSES FOR ANY SUBSTANCE, LIQUID, MIXTURE,  
13 COMPOUND, MATERIAL OR PRODUCT MANUFACTURED, PRODUCED, USED, STORED,  
14 SUPPLIED, IMPORTED, EXPORTED OR DISTRIBUTED AT, TO OR FROM THE  
15 FACILITY OR VEHICLE.

16 C. TESTING. SHOULD A REPRESENTATIVE OF HCEOD DETERMINE  
17 DURING THE COURSE OF A FACILITY OR VEHICLE INSPECTION THAT THE  
18 CHEMICAL NAME, IDENTITY, AMOUNT OR ANY OTHER REQUESTED INFORMATION  
19 FOR ANY SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT  
20 PRESENT AT THE FACILITY OR VEHICLE CANNOT BE IDENTIFIED OR  
21 DETERMINED TO HIS SATISFACTION, DUE TO THE LACK OF PROPER LABELING,  
22 PLACARDING, RECORD KEEPING OR FOR ANY OTHER REASON, THE REPRESENTA-  
23 TIVE SHALL HAVE THE AUTHORITY TO TAKE A SAMPLE OR SPECIMEN OF THE  
24 SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT, IN THOSE  
25 AMOUNTS DEEMED NECESSARY, IN ORDER TO HAVE THE SAMPLE OR SPECIMEN  
26 TESTED AND ANALYZED EITHER AT THE TIME OF THE INSPECTION OR

1 SUBSEQUENT TO THE INSPECTION AT A COUNTY OR PRIVATE LABORATORY.  
2 THE PURPOSE OF THE TEST OR ANALYSIS SHALL BE TO IDENTIFY THE  
3 CHEMICAL PROPERTIES OF THE SAMPLE OR SPECIMEN OR TO DETERMINE THE  
4 AMOUNT OF THE SUBSTANCE, LIQUID, MIXTURE, COMPOUND, MATERIAL OR  
5 PRODUCT MANUFACTURED, PRODUCED, USED, STORED, SUPPLIED, IMPORTED,  
6 EXPORTED OR DISTRIBUTED AT, TO OR FROM THE FACILITY OR VEHICLE.  
7 THE OWNER OR OPERATOR OF A FACILITY OR VEHICLE SHALL PAY ANY  
8 TESTING AND LABORATORY ANALYSIS COSTS INCURRED BY THE HCEOD IF THE  
9 MATERIAL TESTED IS FOUND TO BE A HAZARDOUS SUBSTANCE.

10 D. EMERGENCY SITUATIONS. SHOULD A RELEASE ~~OR THREATENED~~  
11 RELEASE OF A KNOWN OR UNKNOWN SUBSTANCE, LIQUID, MIXTURE, COMPOUND,  
12 MATERIAL OR PRODUCT OCCUR AT A FACILITY OR VEHICLE SITE, WHICH  
13 ENDANGERS OR HAS THE POTENTIAL TO ENDANGER THE HEALTH, SAFETY AND  
14 WELFARE OF THE PUBLIC, EMPLOYEES OF THE FACILITY, THE VEHICLE'S  
15 OWNER OR OPERATOR OR EMPLOYEES OF THE OWNER OR OPERATOR OF THE  
16 VEHICLE, THE HCEOD MAY SEND REPRESENTATIVES TO THE FACILITY OR  
17 VEHICLE SITE AT ANY TIME IN ORDER TO INSPECT THE FACILITY OR  
18 VEHICLE AND TO ASSESS THE DANGER POSED BY THE RELEASE ~~OR THREATENED~~  
19 RELEASE AND TO OBTAIN SAMPLES AND SPECIMENS OF THE SUBSTANCE,  
20 LIQUID, MIXTURE, COMPOUND, MATERIAL OR PRODUCT INVOLVED AND TO  
21 PERFORM ANY OTHER EMERGENCY RESPONSE ACTIVITIES DEEMED NECESSARY  
22 BY THE HCEOD.

23 SECTION 146-8. CONTROL OF SCENE.

24 ~~CONTROL OF SCENE SHALL BE WITH THE SENIOR FIRE COMPANY ON SITE~~  
25 ~~UNTIL CONTROL MAY BE EFFECTED BY TRANSFER FROM THE EMERGENCY~~  
26 ~~RESPONSE ORGANIZATION WHO INITIALLY RESPONDED TO THE SITE TO THE~~

1 ~~HCEOD BY EXPRESS TRANSFER.~~

2 THE SENIOR FIRE COMPANY OFFICIAL ON THE SCENE WILL BE THE  
3 INCIDENT COMMANDER. THE SENIOR FIRE COMPANY OFFICIAL MAY TRANSFER  
4 CONTROL OF THE SCENE TO THE HCEOD UPON EXPRESS AGREEMENT OF BOTH  
5 PARTIES.

6 SECTION 146-9. NOTICE OF VIOLATION (NOV).

7 A. ISSUANCE. THE AUTHORITY MAY ISSUE A NOV IF THERE ARE  
8 REASONABLE GROUNDS TO BELIEVE THAT THE PERSON TO WHOM THE COMPLAINT  
9 NOV IS DIRECTED HAS VIOLATED:

10 (1) THIS ARTICLE.

11 (2) ANY RULE OR REGULATION ADOPTED PURSUANT TO THIS  
12 ARTICLE.

13 (3) ANY ORDER ISSUED PURSUANT TO THIS ARTICLE.

14 B. CONTENTS. A NOV ISSUED UNDER THIS SECTION SHALL:

15 (1) SPECIFY THE PROVISION(S) THAT ALLEGEDLY HAS BEEN  
16 VIOLATED.

17 (2) STATE THE FACTS IN SUPPORT OF THE ALLEGED VIOLATION.

18 SECTION 146-10. ISSUANCE OF NOTICE OR ORDER.

19 A. IN GENERAL. AFTER OR CONCURRENTLY WITH SERVICE OF A  
20 COMPLAINT UNDER THIS ARTICLE, THE AUTHORITY MAY:

21 (1) ISSUE AN ORDER THAT REQUIRES THE PERSON TO WHOM THE  
22 ORDER IS DIRECTED TO TAKE CORRECTIVE ACTION WITHIN A TIME SET FORTH  
23 IN THE ORDER.

24 (2) SEND A WRITTEN NOTICE THAT REQUIRES THE PERSON TO  
25 WHOM THE NOTICE IS DIRECTED TO FILE A WRITTEN REPORT ABOUT AN  
26 ALLEGED VIOLATION.

1           (3) SEND A WRITTEN NOTICE THAT REQUIRES THE PERSON TO  
2 WHOM THE NOTICE IS DIRECTED:

3           (a) TO APPEAR AT A HEARING AT A TIME AND PLACE  
4 SCHEDULED IN ORDER TO ANSWER THE CHARGES IN THE COMPLAINT; OR

5           (b) TO FILE A WRITTEN REPORT AND ALSO APPEAR AT A  
6 HEARING AT A TIME AND PLACE SET TO ANSWER THE CHARGES IN THE  
7 COMPLAINT.

8           B. EFFECTIVE DATE OF ORDER. ANY ORDER ISSUED UNDER THIS  
9 ORDINANCE IS EFFECTIVE IMMEDIATELY ACCORDING TO ITS TERMS UPON  
10 SERVICE.

11 SECTION 146-11. SERVICE.

12           A. MANNER OF SERVICE. ANY COMPLAINT, ORDER, NOTICE OR OTHER  
13 INSTRUMENT ISSUED BY THE AUTHORITY PURSUANT TO THIS ARTICLE MAY BE  
14 SERVED ON THE PERSON TO WHOM IT IS DIRECTED:

15           (1) PERSONALLY.

16           (2) BY PUBLICATION ON OR AT THE ENTRANCEWAY TO THE  
17 PREMISES OR PROPERTY FROM WHICH DISCHARGES ~~TO A POTW~~ OCCUR.

18           (3) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING  
19 A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO THE PERSON'S  
20 LAST KNOWN ADDRESS AS SHOWN ON THE DEPARTMENT'S RECORDS.

21           B. CERTIFICATE OF SERVICE. IF SERVICE IS MADE BY CERTIFIED  
22 MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED  
23 STATES POSTAL SERVICE, THE PERSON WHO MAILES THE DOCUMENT SHALL FILE  
24 WITH THE AUTHORITY VERIFIED PROOF OF MAILING.

25 SECTION 146-12. HEARINGS.

26           A. HEARING ON ORDER. WITHIN TEN (10) DAYS AFTER BEING

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1 SERVED WITH AN ORDER, THE PERSON SERVED MAY REQUEST A HEARING BY  
2 WRITING TO THE DIRECTOR OF ADMINISTRATION.

3 B. SUBPOENAS; WITNESSES.

4 (1) IN CONNECTION WITH ANY HEARING UNDER THIS SUBTITLE,  
5 THE ADMINISTRATOR MAY:

6 (a) SUBPOENA ANY PERSON OR EVIDENCE.

7 (b) ORDER A WITNESS TO GIVE EVIDENCE.

8 (2) A SUBPOENAED WITNESS SHALL RECEIVE THE SAME FEES AND  
9 MILEAGE REIMBURSEMENT AS IF THE HEARING WERE PART OF A CIVIL  
10 ACTION.

11 SECTION 146-13. FINAL CORRECTIVE ORDER.

12 A. UNLESS THE PERSON SERVED WITH AN ORDER MAKES A TIMELY  
13 REQUEST FOR A HEARING PURSUANT TO SECTION 146-12, THE ORDER BECOMES  
14 A FINAL ORDER WITHIN TEN (10) DAYS AFTER SERVICE.

15 B. IF A PERSON WHO HAS BEEN ISSUED AN ORDER UNDER THIS  
16 ARTICLE MAKES A TIMELY REQUEST FOR A HEARING, I.E. REQUESTS A  
17 HEARING WITHIN TEN (10) DAYS AFTER SERVICE IN ACCORDANCE WITH  
18 SECTION 146-11, THE ORDER BECOMES A FINAL CORRECTIVE ORDER WHEN THE  
19 ADMINISTRATOR RENDERS HIS DECISION FOLLOWING THE HEARING.

20 SECTION 146-14. OTHER ACTIONS NOT DEPENDENT ON ISSUANCE OF  
21 COMPLAINT, NOTICE OR ORDER.

22 ~~A PERSON WHO VIOLATES THIS ARTICLE SHALL NOT BE ENTITLED TO~~  
23 ~~THE ISSUANCE OF A COMPLAINT, NOTICE OR AN ORDER. THE COUNTY OR THE~~  
24 ~~AUTHORITY MAY TAKE WHATEVER ACTION IT DEEMS APPROPRIATE AND WHICH~~  
25 ~~IS PERMITTED BY THIS ARTICLE OR THE LAW TO SEEK REDRESS FROM ANY~~  
26 ~~PERSON WHO VIOLATES THIS ARTICLE.~~

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1 SECTION 146-15. INJUNCTIVE RELIEF.

2 A. IN GENERAL. THE COUNTY MAY BRING AN ACTION FOR AN  
3 INJUNCTION AGAINST ANY PERSON WHO VIOLATES ANY PROVISION OF THIS  
4 ARTICLE OR ANY RULES, REGULATIONS, ORDER OR PERMIT ADOPTED OR  
5 ISSUED UNDER THIS ARTICLE.

6 B. ADMINISTRATOR'S FINDINGS. IN ANY ACTION FOR AN  
7 INJUNCTION UNDER THIS SECTION, ANY FINDING OF THE ADMINISTRATOR  
8 AFTER A HEARING IS PRIMA FACIE EVIDENCE OF EACH FACT THE  
9 ADMINISTRATOR DETERMINES.

10 C. GROUNDS. ON A SHOWING THAT ANY PERSON IS VIOLATING OR  
11 ~~IS ABOUT TO VIOLATE~~ THIS SUBTITLE OR ANY RULE, REGULATION, ORDER  
12 OR PERMIT ADOPTED OR ISSUED BY THE COUNTY, THE COURT SHALL GRANT  
13 AN INJUNCTION WITHOUT REQUIRING A SHOWING OF A LACK OF AN ADEQUATE  
14 REMEDY AT LAW.

15 D. EMERGENCY. IF AN EMERGENCY ARISES DUE TO IMMINENT DANGER  
16 TO THE PUBLIC HEALTH OR WELFARE, OR IMMINENT DANGER TO THE  
17 ENVIRONMENT, THE COUNTY MAY SUE FOR AN IMMEDIATE INJUNCTION TO STOP  
18 ANY POLLUTION OR OTHER ACTIVITY THAT IS CAUSING THE DANGER.

19 SECTION 146-16. CIVIL LIABILITY.

20 A. NO HAZARDOUS MATERIAL RESPONSE TEAM MEMBER, MEMBER OF AN  
21 INDUSTRIAL HAZARDOUS MATERIAL RESPONSE TEAM, LAW ENFORCEMENT  
22 OFFICER, AMBULANCE SERVICE OR RESCUE SQUAD MEMBER, FIREFIGHTER OR  
23 OTHER EMERGENCY RESPONSE PERSONNEL ENGAGED IN ANY EMERGENCY SERVICE  
24 OR RESPONSE ACTIVITIES INVOLVING A HAZARDOUS MATERIAL RELEASE AT  
25 A FACILITY OR TRANSPORTATION ACCIDENT SITE SHALL BE LIABLE FOR THE  
26 DEATH OF OR ANY INJURY TO PERSONS OR LOSS OR DAMAGE TO PROPERTY

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1     RESULTING FROM THAT HAZARDOUS MATERIAL RELEASE, EXCEPT FOR ANY ACTS  
2     OR OMISSIONS WHICH CONSTITUTE WILLFUL MISCONDUCT.

3           B.     OTHER. NO EMPLOYEE, REPRESENTATIVE OR AGENT OF A COUNTY  
4     AGENCY OR LOCAL AGENCY ENGAGED IN ANY EMERGENCY SERVICE OR RESPONSE  
5     ACTIVITIES INVOLVING A HAZARDOUS MATERIAL RELEASE AT A FACILITY OR  
6     TRANSPORTATION ACCIDENT SITE SHALL BE LIABLE FOR THE DEATH OF OR  
7     ANY INJURY TO PERSONS OR LOSS OR DAMAGE TO PROPERTY RESULTING FROM  
8     THAT HAZARDOUS MATERIAL RELEASE, EXCEPT FOR ANY ACTS OR OMISSIONS  
9     WHICH CONSTITUTE WILLFUL MISCONDUCT.

10    SECTION 146-17. CIVIL PENALTIES.

11           A.     ANY PERSON WHO DISCHARGES OR INTENTIONALLY PERMITS OR  
12     ALLOWS THE DISCHARGE OR ESCAPE OF HAZARDOUS SUBSTANCES SHALL BE  
13     SUBJECT TO A CIVIL FINE OF ONE THOUSAND DOLLARS (\$1,000.00) PER  
14     DAY. EACH DAY DURING WHICH A DISCHARGE CONTINUES OR REMAINS  
15     UNCONTAINED, OR IS NOT CLEANED UP OR RECAPTURED, SHALL CONSTITUTE  
16     A SEPARATE OFFENSE.

17           B.     ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF  
18     SECTION 146-6, EMERGENCY NOTIFICATION REQUIREMENTS, SHALL BE  
19     SUBJECT TO A CIVIL FINE OF ONE THOUSAND DOLLARS (\$1,000.00) PER  
20     OFFENSE.

21           C.     THESE CIVIL PENALTIES SHALL CONSTITUTE SEPARATE OFFENSES  
22     IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTIES, FINES OR  
23     OFFENSES PROVIDED FOR PURSUANT TO THIS ARTICLE.

24    SECTION 146-18. CRIMINAL PENALTIES.

25           A.     VIOLATING ORDINANCES, RULES, REGULATIONS, ORDERS OR  
26                   PERMITS.

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1           (1) A PERSON WHO VIOLATES ANY PROVISION OR FAILS TO  
2 PERFORM ANY DUTY IMPOSED BY THIS ARTICLE OR WHO VIOLATES ANY  
3 PROVISION OR FAILS TO PERFORM ANY DUTY IMPOSED BY ANY RULE,  
4 REGULATION, ORDER OR PERMIT ADOPTED OR ISSUED UNDER THIS ARTICLE  
5 IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE  
6 NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00) PER DAY PER  
7 VIOLATION OR IMPRISONMENT NOT TO EXCEED SIX (6) MONTHS, OR BOTH.  
8 EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION. EACH SECTION,  
9 SUBSECTION, RULE, REGULATION, ORDER OR PERMIT CONDITION WHICH IS  
10 VIOLATED CONSTITUTES A SEPARATE VIOLATION.

11           (2) IN ADDITION TO ANY CRIMINAL PENALTIES IMPOSED ON A  
12 PERSON CONVICTED UNDER THIS SECTION, THE PERSON MAY BE ENJOINED  
13 FROM CONTINUING THE VIOLATION(S).

14           B. FALSE STATEMENTS IN REQUIRED DOCUMENTS. A PERSON IS  
15 GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE  
16 NOT EXCEEDING ONE THOUSAND DOLLARS (\$1,000.00) PER DAY PER  
17 VIOLATION OR IMPRISONMENT NOT TO EXCEED SIX (6) MONTHS PER  
18 VIOLATION, OR BOTH, IF THE PERSON:

19           (1) KNOWINGLY MAKES ANY FALSE STATEMENT, REPRESENTATION  
20 OR CERTIFICATION IN ANY APPLICATION, RECORD, REPORT, PLAN OR OTHER  
21 DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THE ARTICLE OR  
22 ANY RULE, REGULATION, ORDER OR PERMIT ADOPTED OR ISSUED UNDER THE  
23 ARTICLE.

24           (2) FALSIFIES, TAMPERS WITH OR KNOWINGLY RENDERS  
25 INACCURATE ANY MONITORING DEVICE OR ~~METHOD~~ PROCEDURE REQUIRED TO  
26 BE MAINTAINED UNDER THIS ARTICLE OR ANY RULE, REGULATION, ORDER OR



1 PERMIT ADOPTED OR ISSUED UNDER THIS ARTICLE.

2 SECTION 146-19. MISCELLANEOUS PROVISIONS.

3 A. RULES AND REGULATIONS.

4 PURSUANT TO SECTION 807 OF THE HARFORD COUNTY CHARTER,  
5 THE HCEOD SHALL HAVE THE AUTHORITY TO PROMULGATE SUCH RULES AND  
6 REGULATIONS AS ARE NECESSARY FOR IMPLEMENTATION OF THIS ARTICLE AND  
7 COMPLIANCE WITH THE ACT.

8 B. SEVERABILITY.

9 IF ANY PROVISION, PARAGRAPH, WORD, SECTION OR SUBSECTION  
10 OF THIS ARTICLE IS INVALIDATED BY ANY COURT OF COMPETENT  
11 JURISDICTION, THE REMAINING PROVISIONS, PARAGRAPHS, WORDS, SECTIONS  
12 AND SUBSECTIONS SHALL NOT BE AFFECTED AND SHALL CONTINUE IN FULL  
13 FORCE AND EFFECT.

14 C. CONFLICT.

15 ALL OTHER ORDINANCES OR PARTS OF OTHER ORDINANCES OR  
16 LOCAL LAWS INCONSISTENT WITH ANY PART OF THIS ARTICLE ARE HEREBY  
17 REPEALED TO THE EXTENT OF SUCH INCONSISTENCY OR CONFLICT.

18 D. IN ANY RESPONSE ACTION, THE AUTHORITY MAY NOT DUPLICATE  
19 ANY RESPONSE ACTION TAKEN UNDER "THE ACT" OR "THE CODE."

20 ARTICLE 2. TRANSPORTATION

21 SECTION 146-20. NOTIFICATION OF COUNTY.

22 ANY PERSON WHO TRANSPORTS HIGH-LEVEL NUCLEAR WASTE INTO,  
23 WITHIN, THROUGH OR OUT OF HARFORD COUNTY BY ANY ROAD OR HIGHWAY  
24 SHALL NOTIFY CENTRAL ALARM OF HARFORD COUNTY OF SUCH ACTIVITY.  
25 NOTIFICATION SHALL BE MADE IN WRITING OR BY TELEPHONE TO CENTRAL  
26 ALARM PRIOR TO SHIPMENT. NOTIFICATION TO CENTRAL ALARM SHALL

1 INCLUDE THE FOLLOWING INFORMATION:

- 2 (1) MANIFEST NUMBER.
- 3 (2) NAME OF SHIPPER.
- 4 (3) NAME OF CARRIER.
- 5 (4) TYPE AND QUANTITY OF RADIOACTIVE MATERIAL.
- 6 (5) DATE AND TIME OF SHIPMENT.
- 7 (6) STARTING POINT, SCHEDULED ROUTE AND DESTINATION.
- 8 (7) TAG NUMBER OF TRACTOR AND TRAILER.
- 9 (8) THE NAME OF ANY INDIVIDUAL THAT MAY BE CONTACTED ON
- 10 A TWENTY-FOUR-HOUR BASIS IN CASE OF AN EMERGENCY.

11 SECTION 146-21. DEFINITIONS.

12 FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING TERMS SHALL

13 HAVE THE MEANINGS INDICATED:

14 HIGH-LEVEL NUCLEAR WASTES:

- 15 (1) IRRADIATED NUCLEAR REACTOR FUEL.
- 16 (2) LIQUID WASTE FROM OPERATION OF THE FIRST CYCLE
- 17 SOLVENT EXTRACTION SYSTEM AND THE CONCENTRATED WASTE FROM
- 18 SUBSEQUENT EXTRACTION CYCLES OR THEIR EQUIVALENT IN A FACILITY FOR
- 19 REPROCESSING IRRADIATED REACTOR FUEL.
- 20 (3) SOLVENTS INTO WHICH SUCH WASTES HAVE BEEN CONVERTED.

21 SECTION 146-22. EXEMPTIONS.

22 EXEMPTED FROM THE PROVISIONS OF THIS CHAPTER ARE ANY

23 RADIOACTIVE MATERIALS SHIPPED BY OR FOR THE UNITED STATES

24 GOVERNMENT FOR MILITARY OR NATIONAL SECURITY PURPOSES WHICH ARE

25 RELATED TO THE NATIONAL DEFENSE AND ANY HIGH-LEVEL NUCLEAR WASTE

26 THAT IS TRANSPORTED INTERSTATE ON I-95.

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## 1 SECTION 146-23. MAINTENANCE OF LOG.

2 CENTRAL ALARM SHALL KEEP A SEPARATE AND CONTINUOUS LOG OF EACH  
3 NOTIFICATION. THE LOG SHALL INCLUDE THE INFORMATION THAT SHALL BE  
4 SUPPLIED BY ANY PERSON WHO TRANSPORTS HIGH-LEVEL NUCLEAR WASTE  
5 INTO, WITHIN, THROUGH OR OUT OF HARFORD COUNTY. THE PUBLIC MAY  
6 HAVE ACCESS TO THE LOG DURING NORMAL OPERATING HOURS AND MAY, UPON  
7 PAYMENT OF THE APPROPRIATE FEE, OBTAIN A COPY OF THE PAGES OF THE  
8 LOG.

## 9 SECTION 146-24. VIOLATIONS AND PENALTIES.

10 ANY PERSON WHO FAILS TO NOTIFY CENTRAL ALARM OF SUCH SHIPMENT  
11 SHALL BE SUBJECT TO A TRAFFIC CITATION. THE VIOLATOR MAY WAIVE HIS  
12 RIGHT TO A COURT HEARING BY PAYING A FINE OF TWO HUNDRED DOLLARS  
13 (\$200.), PAYABLE TO THE TREASURER OF HARFORD COUNTY WITHIN THIRTY  
14 (30) DAYS FROM THE DATE OF THE ALLEGED VIOLATION.

15 Section 2. And Be It Further Enacted that this act is declared to  
16 be an emergency act necessary to conform to existing federal and  
17 state legislative requirements and to protect the health, safety  
18 and welfare of the citizens of Harford County and shall take effect  
19 on the date it becomes law.

20 EFFECTIVE: October 22, 1990  
21  
22

AS AMENDED

BY THE COUNCIL

BILL NO. 90-83 (As Amended)

Read the third time.

Passed: LSD 90-31 (October 16, 1990)

Failed of Passage: \_\_\_\_\_

By Order

Doris Paulsen, Secretary

Sealed with the County Seal and presented to the County Executive  
for his approval this 19th day of October, 1990  
at 3:00 o'clock P.M.

Doris Paulsen, Secretary

BY THE EXECUTIVE

COUNTY EXECUTIVE

Date 10-22-90

APPROVED:

BY THE COUNCIL

This Bill (No. 90-83 As Amended), having been approved by the  
Executive and returned to the Council, becomes law October 22, 1990.

Doris Paulsen, Secretary

EFFECTIVE DATE: October 22, 1990